

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

F I L E D
AUG 21 2014
CLERK'S OFFICE
U.S. DISTRICT COURT
ANN ARBOR, MI

ARTHUR CAMPBELL,

Plaintiff,

v.

CYNTHIA GAUSE, *et. al.*,

Defendants.

Case No. 10-11371

Honorable John Corbett O'Meara

ORDER GRANTING IN PART
DEFENDANTS' MOTION FOR COSTS AND ATTORNEY FEES

This matter came before the court on Defendants' March 10, 2014 motion for costs and attorney fees. Plaintiff Arthur Campbell filed a response also March 10, 2014. No reply was filed, and no oral argument was heard.

On April 6, 2010, plaintiff Arthur Campbell, a state prisoner, filed this lawsuit against 11 employees of the State of Michigan. Plaintiff alleged Defendants violated 42 U.S.C. § 1983 by transferring him to a different correctional facility in retaliation for his exercising his constitutional rights. In his deposition testimony, however, Plaintiff conceded that he himself had requested the transfer. This court subsequently found his lawsuit to be utterly without merit.

The court granted Defendants' motion for summary judgment in its entirety March 5, 2014. Pursuant to Rule 54(d) of the Federal Rules of Civil Procedure, a prevailing party may move for costs after judgment has been entered. In addition, 42 U.S.C. § 1988(b) allows the court to award costs and attorney fees to prevailing parties in cases brought under 42 U.S.C. § 1983. The court may

also award reasonable expenses, including attorney fees, to a prevailing party when Rule 11 has been violated.

In their timely motion for costs and attorney fees, Defendants seek \$1036.30 in costs, all of which are transcript fees, and a total of \$55,317.50 in attorney fees. The court will award the entire amount of costs for the transcripts. However, because defense counsel consists of salaried state employees, the court will not grant their requested fees at \$545.00 per hour. The court finds, though, that Defendants are entitled to some attorney fees due to the frivolous nature of this suit. The docket sheet indicates that plaintiff Campbell has paid the \$505.00 filing fee to file an appeal in this matter; therefore, he has the means to pay some of Defendants' attorney fees. Accordingly, the court will award Defendants \$3,000.00 in attorney fees.

ORDER

It is hereby **ORDERED** that Defendants' March 10, 2014 motion for costs and attorney fees is **GRANTED IN PART**; and plaintiff Arthur Campbell is **ORDERED TO PAY** \$1036.30 in costs and \$3000.00 in attorney fees for a total award of \$4036.30.



John Corbett O'Meara
United States District Judge

Dated:

August 21, 2014